

Agriculture Youth Employment Regulation Proposed Rule by U.S. Department of Labor

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Comments due December 1, 2011

Issue Overview:

U.S. Department of Labor (USDOL) issued a proposed rule (regulation change) on September 2, 2011 under a new interpretation of existing law that would dramatically change work opportunities for youth under 16 in agriculture. In short:

- The proposed rule expands regulation of youth under 16 who are permitted to work in agriculture and prohibits youth under 16 from being employed in specific "hazardous occupations."
 - There is a very narrow exemption for youth employed by parents that solely own or exclusively operate the farm.
- The proposed rule prevents employed youth under the age of 16 from operating any powered equipment or devices.
 - The current exemption for student learner programs is severely restricted.
- The proposed rule limits the work opportunities with livestock.
- The proposed rule prohibits all pesticide handling activities.
- The proposed rule prohibits the use of any interactive communication device, including a two-way radio or cell phone.



Youth would no longer be allowed to:

Details:

Hazardous Occupations:

Central to the proposed rule, is the definition of hazardous occupations. Under the proposed rule hazardous occupations are added, expanded, and renamed. The proposed rule for youth under 16:

- Prevents youth from operating tractors, farm field equipment, farmstead equipment, lawn tractors, electronic devices, and all other powered equipment.
 - The rule prohibits the tending, setting up, adjusting, moving, cleaning, oiling, repairing, feeding or offloading (whether directly or by conveyor) of powered equipment.
 - Prohibits operating an ATV, scooter or motorcycle (no student learner provision).
 - Prohibits herding livestock from a horse.
 - Prohibits riding on equipment as a passenger or helper.
 - Prohibits working inside any fruit, forage or grain silo or bin at any time.
- ride on a hay wagon or stack bales over six feet.
 - stand on a ladder over six feet to pick fruit (apples, cherries, etc.).
 - care for injured or treat sick animals.
 - use milking equipment.
 - use power tools, power washers, etc.
 - operate a lawn tractor – no more mowing around the farm.
 - move irrigation equipment.
 - care for 4-H animals on a farm.

Family Exemption:

Revised "parent" exemption allowing only children whose parent(s) is the sole owner or exclusive operator of the farm to be exempt from the entire rule.

Examples:

Sole owner or operator is the only authorized employer. Grandchildren may not work on the grandparents farm, unless they live with the grandparents for more than a month. The children of two brothers in partnership are prevented from working on the farm under the proposed rule. Most business structures (short of sole proprietor) are not eligible for the family exemption.

4H & FFA:

- The rule defines employment as "to suffer or permit to work."
- The rule applies "to an employee employed in agriculture."
- "Agriculture" includes activities "on a farm as an incident to or in conjunction with such farming operations."
- Therefore 4H & FFA activities are likely prohibited due to the proposed rule.

Additional Information:

The USDOL website contain additional information on the regulatory change:

http://www.dol.gov/whd/CL/AG_NPRM.htm

The official Federal Register posting:

<http://www.gpo.gov/fdsys/pkg/FR-2011-09-02/pdf/2011-21924.pdf>

Comments:

Farmers are encouraged to submit comments by December 1, 2011.

Comments can be submitted online here:

<http://tinyurl.com/3ohycak>

Suggested comments:

1. Introduce yourself and describe your farm.
2. State the concern over the rules as they relate to your farm.
3. Ask USDOL to not move forward with a final rule in any facet.
 - a. At the very least, USDOL should allow for an extension of comments.
Farmers are unable to review and file comments in the middle of harvest.

